

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ETHAN SKINNER,

Plaintiff,

vs.

Cause No. CV-08-743

UNITED SPECIAL, INC.,

Defendant.

**ANSWER TO PLAINTIFF'S COMPLAINT FOR EMPLOYMENT
DISCRIMINATION**

Defendant United Special, Inc., by and through Valdez and White Law Firm (Timothy L. White, Esq.), answers Plaintiff's Original Complaint for Employment Discrimination as follows:

1. Defendant has insufficient information to admit or deny Paragraph 1 as to Plaintiff's residence.
2. The allegations of Paragraph 2 are admitted.
3. The allegations of Paragraph 3 are admitted.
4. The allegations of Paragraph 4 are admitted.
5. The allegations of Paragraph 5 are admitted.
6. The allegations of Paragraph 6 are denied insofar as they are incomplete and therefore misleading.
7. The allegations of Paragraph 7 are admitted.
8. The allegations of Paragraph 8 state a legal conclusion that does not require admission or denial.
9. The allegations of Paragraph 9 are denied.

10. The allegations of paragraph 10 are denied.
11. The allegations of paragraph 11 are denied.
12. The allegations of paragraph 12 are denied.

AFFIRMATIVE DEFENSES

13. This court has no jurisdiction of this matter as plaintiff has failed to plead that he has exhausted the required administrative remedies.
14. Plaintiff has failed to join indispensable parties to this litigation over whom this Court has no jurisdiction, i.e., the Navajo Nation, and this complaint must therefore be dismissed.
15. Plaintiff has failed to mitigate his damages.
16. Defendant affirmatively pleads that Plaintiff's complaint fails to state a claim upon which relief may be granted.
17. Defendant affirmatively pleads that Plaintiff's claims for lost earnings must be offset by all benefits received by Plaintiff, including but not limited to, workers' compensation, disability and/or unemployment benefits as well as any earnings from any other employer or the conduct of any business.
18. Defendant affirmatively pleads Plaintiff is not entitled to recover punitive or exemplary damages because Defendant did not engage in any action with malice or reckless indifference to the rights of Plaintiff.
19. Defendant affirmatively pleads that the standards by which liability for and the amount of punitive or exemplary damages would be determined are vague and wholly arbitrary, and, as such, supply no notice to Defendant of the potential

- repercussions of the alleged conduct, thereby denying Defendant due process under the Fifth and Fourteenth Amendments to the United States constitution.
20. Defendant affirmatively pleads that an imposition of exemplary damages in this case would violate Defendant's rights under the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution.
21. Defendant affirmatively pleads all applicable statutes of limitations that bar plaintiff's claims, in whole or in part.
22. Defendant affirmatively pleads that plaintiff's termination was required by Navajo law

For the reasons stated, Defendant request that the Court deny or dismiss each and every claim of Plaintiff, that judgment be granted in defendant' favor, and for such other relief to which the Court finds them entitled.

Respectfully submitted,

VALDEZ AND WHITE LAW FIRM

electronically signed
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Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was faxed on this 9th day of September 2008 to the following counsel of record:

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